

The City Council met in regular session in the Council Chambers on Wednesday, July 1, 2009 at 9:00 a.m.

Council Members present: Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

On motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, the reading of the minutes of the meeting of June 17, 2009 were dispensed with and same adopted with copies furnished to the members of City Council by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

Copies of the bills under date of June 26th and July 3rd, 2009 were given to City Council and same adopted by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0., with the exception of invoices to the NATO Centers on which Mrs. Jenkins-Husband abstained from voting.

By Mrs. Jenkins-Husband, Council File Ordinance #15,658, Pending Official File Ordinance #34-3009,

an ordinance appropriating the sum of **\$149,519.06** from the Paving and Sewer Revolving Account fund balance #017-0000-0000-3001 and providing for the expenditure thereof by allocating said funds to Account #017-0707-0000-4075 Bridges and Streets.

July 1, 2009. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, having read Council File Ordinance #15,658 and now known as Pending Official File Ordinance #34-2009, does hereby adopt on Final Passage by yes Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,659, Pending Official File Ordinance #35-2009

an ordinance appropriating the sum of **\$75,180.00** from unappropriated revenue received from a PADEP-Growing Greener Grant #270-0707-0000-3330 contributions and providing for the expenditure thereof by allocating said funds to Account #270-0707-0000-4077 Other Improvements.

July 1, 2009. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, having read Council File Ordinance 15,659 and now known as Pending Official File Ordinance #35-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson, and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mr. Jones, Council File Ordinance #15,660, Pending Official File Ordinance #36-2009

an ordinance appropriating the sum of **\$27,814.00** from unappropriated and anticipated revenue from Account #250-0613-0000-3111 Tobacco Compliance Grant Fund Balance and providing for the expenditure thereof by allocating said funds to various 0613 accounts including 4006 Overtime (\$22,000.00; 4016 FICA/Medicare (\$814.00); 4021 Valic/Deferred Comp (\$1,000.00) and 4059 Other Services & Charges (\$4,000.00).

July 1, 2009. City Council on motion of Mr. Jones, Seconded by Mrs. Horan-Kunco, having read Council File Ordinance #15,660 and now known as Pending official File Ordinance #36-2009, does hereby adopt on Final Passage by yeas Council Member Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mr. Jones, Council File Ordinance #15,661, Pending Official File Ordinance #37-2009,

an ordinance appropriating the sum of **\$20,000.00** from unappropriated and anticipated revenue from Account #260-0613-2009-3699 2009 Weed & Seed Mini-Grants and providing for the expenditure thereof by allocating said funds to Account #260-0613-2009-4059 Other Services & Charges. (These funds are for Administrative Services by Stephan Chatman and for Neighborhood Mini-Grants for the City and County neighborhoods with a maximum amount of \$500.00 per grant.)

July 1, 2009. City Council on motion of Mr. Jones, Seconded by Mrs. Horan-Kunco, having read Council File Ordinance #15,661, Pending Official File Ordinance #37-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

Honorable Joseph E. Sinnott
Mr. Patrick S. Cappabianca
James, Klemm, City Clerk

June 23, 2009
RE: Erie Sewer Authority
\$15,500,000 Sewer Revenue Bonds, Series of 2009

Gentlemen:

Enclosed please find a draft Ordinance to be placed on City Council agenda on behalf of the Erie Sewer Authority. Erie Sewer Authority is requesting a first reading of this Ordinance at City Council's July 1, 2009 meeting. The purpose of the Ordinance is to approve the Erie Sewer Authority's issuance of \$15,500,000 Sewer Revenue Bonds, Series of 2009. The purpose of the issuance of the bonds is to currently refund the Authority's existing Sewer Revenue Bonds, Series of 1999. The Authority established a Parameters Resolution with PNC Capital Markets LLC to proceed forward with the refunding of these bonds if the net debt service savings to the Authority reached a minimum of \$400,000. The Authority is requesting a first reading to City Council in order to place it in an appropriate position to take advantage of the market if those minimum goals are reached in the marketplace. If you have any questions concerning this matter, please contact me at any time.

Very truly yours,
KNOX McLAUGHLIN GORNALL & SENNETT, P.C.
S/ Timothy M. Sennett

By Mr. Cappabianca, Council File Ordinance #15,662

an ordinance approving the plan of the Erie Sewer Authority for the issuance of an aggregate amount not to exceed **\$15,500,000.00 Sewer Revenue Bonds**, Series of 2009 and setting forth the amount, interest rates and maturity dates of the bonds; authorizing the authority to proceed with the plan of financing; authorizing the execution and delivery of a lease agreement and the incurrence of lease rental debt thereby, authorizing the specified officers of the City of Erie to prepare and certify the debt statement and to do all other acts necessary to carry out the provisions of the ordinance; setting forth the payment of the Sewer Revenue Bonds and the source of such payments, repealing all inconsistent ordinances and providing that the ordinance is effective immediately.

July 1, 2009. City Council on motion of Mr. Cappabianca, Seconded by Mrs. Jenkins-Husband, having read Council File Ordinance #15,662, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones and Thompson. 6. Nays. 0. (Mr. Schember abstaining)

By Thompson, Council File Ordinance #15,663

an ordinance appropriating the sum of **\$93,848.61** from unappropriated and anticipated revenue from Account 231-0613-2008-3337 Insurance Fraud Prevention and providing for the expenditure thereof by allocating said funds to various 231-0613-2009-40xx accounts. (This grant covers partial salary and overtime for the Insurance Fraud Investigator. It also covers the vehicle lease, gasoline, equipment purchases and cell phone service for the Insurance Fraud office. This grant is funded by the Commonwealth of Pennsylvania Insurance Fraud Prevention Authority.)

July 1, 2009. City Council motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,663 does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Mr. Thompson, Council File Ordinance #15,664

an ordinance appropriating the sum of **\$210,500.00** from unappropriated and anticipated revenue from Account #261-0613-2008-3336 Weed & Seed Quality of Life and providing for the expenditure thereof by allocating said sum to various #261-0613-2008-40xx accounts. (This grant is funded by PCCD for the grant period of 7/1/09 to 6/30/10. Funds will be used for overtime, supplies, training and consultant expenses for various initiatives.)

July 1, 2009. City Council on motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,664, does hereby adopt on First Reading by yeas Council Member Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Jones, Council File Ordinance #15,665

an ordinance appropriating the sum of **\$953,386.00** from unappropriated and anticipated revenue from Account #501-0000-0000-3301 Federal Operating Grant - U. S. Department of Housing and Urban Development (HUD) and providing for the expenditure thereof by allocating said funds to Account #501-1237-2008-4075 Bridges and Streets. (These additional CDBG funds were made available to the City under the American Recovery and Reinvestment Act of 2009. The funds will be used for street resurfacing in low to moderate income neighborhoods at various locations throughout the City.)

July 1, 2009. City Council on motion of Mr. Jones, Seconded by Mr. Thompson, having read Council File Ordinance #15,665, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

TO: Rubye Jenkins-Husband, City Council Liaison June 22, 2009
FROM: Doug Mitchell, Director of Public Works, Property & Parks
RE: East 2nd Street R.O.W. east of Chautauqua Blvd.

Upon further review of the matter regarding the East 2nd Street right-of-way east of Chautauqua Blvd., the Public Works Department's position is that the City not entertain request to purchase the land, as it is City public R. O. W., not City-owned property. Additionally, and most importantly, it is the Department's recommendation that it is in the best interest of the city not to vacate the R. O. W. to the abutting property owner, but, to hold onto the "paper" R. O. W. street as it currently exists. There is presently a city storm sewer in this R. O. W. and preserving the R. O. W. keeps future options open for any changes to storm and/or sanitary sewer facilities that may be desired.

The private property currently under development has other means of ingress and egress, i.e., private drive off East Lake Road. Any temporary access desired by the developer's logging contractor should be via the aforementioned private drive or off of East 4th Street east of Chautauqua Blvd. Which is a pave street, not at the East 2nd Street R. O. W. where no street exists.

If there are any questions do not hesitate to contact me.

July 1, 2009. City Council receive and enter in the minutes for information.

WAIVE RULES

By Mr. Thompson, Seconded by Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones and Schember, Resolved, etc.,

That the City Solicitor is hereby authorized and directed to prepare an ordinance naming a portion of East 21st Street between Ash and Reed Streets, as "**Clara's Way**" as an honorary tribute to her works of charity in the Erie community.

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.
July 1, 2009. Signed by the President. Attested by the City Clerk.

TO: Patrick Cappabianca, City Council June 11, 2009
FROM: Andy Zimmerman, Manager of Code Enforcement
RE: Stationary Engineer License

Mr. Cappabianca, with the loss of our Stationary Steam Engineers' Board President, I am forwarding the Boards' recommendation for replacement, John L. Rupp. I am attaching his letter of intent. Please consider him for a new member of the Board.

By Mr. Cappabianca, Seconded by Mr. Thompson, Resolved, etc.,

That John L. Rupp, 3107 Old French Road, Erie, Pa., is hereby appointed to the **Stationary Steam Engineer's Board** for a term expiring December 31, 2010 to fill out the remaining term of Joe Ewanick.
(Mr. Rupp's appointment has been recommended by the Stationary Steam Engineer's Board)

July 1, 2009. City Council adopt by yeas Council members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.
July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mr. Thompson, Resolved, etc,

That the proper officials of the City Administration are respectfully requested to research possible grant funds for "**Community Partnership Garden Projects**" and review land use possibilities in the City for family gardening projects to nurture community spirit and provide for health foods and diets among our children and families.

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0
July 1, 2009. Signed by the President. Attested by the City Clerk.

Greg Karle, Esq., Solicitor's Office June 12, 2009
626 State Street, Erie, Pa. 16501

RE: Erie City Water Authority - McKean Borough and Township Water Main Extension

Dear Attorney Karle:

Please be advised that the Erie City Water Authority was approved for a grant in the amount of \$4,736,829 and a loan in the amount of \$713,161. As part of the Funding Agreement between Pennvest and the Erie City Water Authority, the Lease Agreement and all obligations under the Lease of the City of Erie must be assigned to Pennvest. I am enclosing an Assignment of Lease Agreement which has been prepared by

Pennvest's legal counsel. We would ask you to please review this document and place it on the agenda for approval by City Council. If you have any questions concerning this matter, please contact me at any time.

Very truly yours,
KNOX McLAUGHLIN GORNALL & SENNETT
S/ Timothy M. Sennett

NOTE: Attached thereto is a six page Assignment of Lease Agreement

By Mrs. Horan-Kunco, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,
That the proper City officials are authorized and directed the execute documents consenting to assignment of a Lease between Erie City Water Authority (ECWA and PennVest) in connection with a funding agreement between ECWA and Pennvest (**Pennsylvania Infrastructure Investment Authority**, Harrisburg, Pa.). The ECWA was approved for a grant in the amount of \$4,736,829 and a loan in the amount of \$713,161. As part of the Funding Agreement between Pennvest and the Erie City Water Authority, the Lease Agreement and all obligations under the Lease of the City of Erie must be assigned to Pennvest. (This is in conjunction with the Erie City Water Authority - McKean Borough and Township Water Main Extension Project.)

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 1. Nays. 0.
July 1, 2009. Signed by the President. Attested by the City Clerk.

RESOLUTION FOR PLAN REVISION FOR NEW LAND DEVELOPMENT

Resolution of the Council of the City of Erie, Erie County, Pennsylvania, (hereinafter "the Municipality"),

WHEREAS, Section 5 of the Act of January 24, 1966, P. L. 1535, No. 537, known as the "Pennsylvania Department of Environmental Protection (Department) adopted thereunder, Chapter 71, Title 25, of the Pennsylvania Code, require the municipality to adopt an Official Sewage Facilities Plan providing for sewage services adequate to prevent contamination of waters of the Commonwealth and/or environmental health hazards from sewage wastes, and to revise said plan whenever it is necessary to determine whether a proposed method of sewage disposal for a new land development conforms to a comprehensive program of pollution control and water quality management, and

WHEREAS, **Montagna Builders**, land developer, has proposed the development of a parcel of land identified as Montagna Apartments, E. 38th Street and Warsaw Avenue NE corner, Erie, Pa., name of subdivision and described in the attached Sewage Facilities Planning Module and proposes that such subdivision can be served by (list all that apply) sewer tap ins, sewer extension, new treatment facility, individual on-lot systems, community on-lot systems, spray irrigation, retaining tanks, other, **Sewer Tap-ins**.

WHEREAS, the City of Erie finds that the subdivision described in the attached Sewage Facilities Planning Module conforms to applicable sewage related zoning and other sewage related municipal ordinances and plans, and to a comprehensive program of pollution control and water quality management.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Erie hereby adopts and submits to the Department of Environmental Protection for its approval as a revision to the Official Sewage Facilities Plan of the municipality the above referenced Sewage Facilities Module which is attached hereto.

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.
July 1, 2009. Signed by the President. Attested by the City Clerk.

NOTE: A SIMILAR RESOLUTION AS THAT NOTED ABOVE, REGARDING A PLAN REVISION FOR NEW LAND DEVELOPMENT WAS ALSO SUBMITTED BY **CATHEDRAL PREP**, land developer, proposing the development of a parcel of land identified as Cathedral Prep Athletic Center, West 12th Street at Cherry Street, SE Corner, Erie, Pa. for **Sewer Tap-ins**.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,
That the proper City officials are authorized and directed to submit the Plan Revision for New Land Development to the Department of Environmental Protection as requested by Cathedral Prep, land developer, proposing the development of a parcel of land identified as **Cathedral Prep Athletic Center**, West 12th Street at Cherry Street, SE corner, Erie, Pa. for Sewer Tap-ins.

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the proper City officials are authorized and directed to issue a contract to **Day Automotive Group**, 1600 Golden Mile Highway, Monroeville, Pa., for a Ford F-250 4x4 with power lift gate, for the Bureau of Sewers at a total cost of \$30,594.00. (COSTARS Purchase)

Be It Further Resolved, that the City Council does hereby ratify and confirm the said transaction which is to be charged against Budget Code Number 007-0773-0000-4078.

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mr. Cappabianca, Resolved, etc.,

That the City Purchasing Agent are authorized and directed to issue purchase orders to the following individuals and/or companies for goods and/or services as noted and the City Council does hereby ratify and confirm the aid transactions which are to be charged to the respective Budget Code Numbers:

1. **Urban Engineers of Erie, Inc.**, 1319 Sassafras Street, Erie, Pa., for Construction Support Services and Inspection rendered for 2008 Milling and Resurfacing and Curb Ramps-II Bid #1621-08, in the amount of \$4,833.75.
2. **Networking Technologies**, 3910 Caughey Road, Suite 307, Erie, Pa., for an annual contract renewal for Checkpoint Firewall Support for the Bureau of Computer Services, in the amount of \$6,454.00.
3. **Goellner Plumbing**, 7335 Old Perry Highway, Erie, Pa., for repairs at City Hall, for a total sum of \$3,450.00.
4. **Bratwear**, 5417 - 12th Street E., Suite 100, Fife, WA, for assorted uniform items for the Quebec Unit, for the Bureau of Police at a total cost of \$2,465.75.
5. **Erie County District Attorney Office**, 140 West 6th Street, Erie, Pa., for Salary Reimbursement from April-June, 2009 for Detective Mark Rosenthal for the Weed & Seed Program for the Bureau of Police for a total cost of \$2,500.00.
6. **Commonwealth of Pennsylvania**, Division of Reporting and Fee Collection, P. O. Box 8550, Harrisburg, Pa., for Waste Transporter Renewal Fees for the Municipal Garage for the sum of \$3,100.00.
7. **Envirozone, LLC**, P. O. Box 3789, Covington, LA, for Roll-off Can Liners for the Bureau of Sewers for the sum of \$2,526.00.
8. **DeZurik % C & W Sales, Inc.**, 1121 Boyce Road, Suite 2300, Pittsburgh, Pa., for two (2) DeZurik Air Activated Plug Valves for the East Primary Tanks for the Bureau of Sewers at a total cost of \$2,588.80.
9. **William T. Spaeder Co.**, 1602 East 18th Street, Erie, Pa. for Emergency Evacuation of the East Primary Sludge Line for the Bureau of Sewers at a total cost of \$3,100.00.
10. **National Vacuum Corp.**, 408 - 47th Street, Niagara Falls, NY, for Cleaning Grit Chamber #1 for the Bureau of Sewers in the sum of \$3,844.60.
11. **William T. Spaeder Co.**, 1602 East 18th Street, Erie, Pa., for Demolition & Removal of all grit buckets, chains, sprockets and shafts in Grit Chamber #1, for the Bureau of Sewers at a total cost of \$7,000.00.
12. **ONEX, Inc.**, 2225 Colonial Avenue, P. O. Box 8436, Erie, Pa., for Repair of Drop Holes in Incinerator #2, for the Bureau of Sewers in the amount of \$8,531.00.
13. **Ace Viking**, 2222 East 30th Street, Erie, Pa., for four (4) 25 HP Baldor Inverter Drives, for the Bureau of Sewers for the sum of \$8,800.00.
14. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for paving winter cut on 7th Street between Poplar and Liberty Streets @ \$9,471.00 for the Bureau of Sewers. (Material Costs Only).
15. **Kaza Fire Equipment Co.**, 155 Lovell Avenue, Suite 1, Ebensburg, Pa., for SCBA (Self-contained Breathing Apparatus) equipment for the Bureau of Sewers for the total sum of \$9,842.75. (COSTARS pricing)
16. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for Rebuilding of the City of Erie Lift Station located by the Yacht Club, for the Bureau of Sewers for the sum of \$11,609.83. (Material costs only)

July 1, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 1, 2009. Signed by the President. Attested by the City Clerk.

In compliance with a Council resolution dated April 15, 2009, **Dr. Tom Falasco**, Erie County Medical Society, reviewed their Independent Study and Medical Society Report on the health risk assessment of the proposed Tires to Energy Plant and **Paul Burroughs**, Chairperson, Erie County Board of Health also presented their review.

**ERIE COUNTY MEDICAL SOCIETY REPORT ON ERE AIR QUALITY IMPACTS,
MODEL VALUES AND RISK ASSESSMENT**

Erie County Medical Society, 1438 West 38th Street, Erie, Pa. 16508-2324 866-6820
Author: Thomas Falasca, DO, Erie County Medical Society Secretary

Consulting Authors:

Nancy Weissbach, MD, Erie County Medical Society President
Craig Johnston, DO, Erie County Medical Society Immediate Past-President
Christopher Clark, DO, Erie County Medical Society President-Elect
Robert Haverly, Erie County Medical Society Vice-President
Eardly Wickramasinghe, MD, Erie County Medical Society Treasurer
Charles Joy, DO, Erie County Medical Society editor
Paul Malaspina, MD, Erie county Medical Society Board of directors
Kevin Shaffer, MD, Pennsylvania Medical Society Primary Care Specialty Trustee
(Family Medicine)
Peter Lund, MD, Pennsylvania Medical Society Immediate Past-President

Zero Conflict of Interest

The Erie County Medical Society is motivated only by its concern for the health of the residents of Erie County. The Medical Society has no financial interest in the success or failure of the proposed tire-fueled power plant.

Reason for Report

On December 6, 2007, Erie Renewable Energy (ERE) applied to construct and operate a power plant on the former International Paper site. ERE proposed to combust waste tire chips to generate electricity. (1)

In response to inquiries from its members and the general public, the Erie County Medical Society examined ERE's application and was sufficiently concerned by the projected emissions to call for an independent health impact assessment. (2)

The Pennsylvania EPA Northwest Regional Office then received on February 24, 2000 two reports; (1) Air Quality Impacts of Criteria Pollutants from Tire Derived Fuel Plant, dated December 5, 2007, and revised February 20, 2009 along with (2) Modeled Values of Hazardous Air Pollutants from Tire Derived Fuel Plant dated February 20, 2009. Both reports were prepared for ERE by Energy and Environmental Management Incorporated (EEMI) of Harrison City, Pa. The same EPA office subsequently received on March 12, 2009 a third documents (3) Erie Renewable Energy Risk Assessment dated March 2009 prepared by Zordan Associates of Murrysville, Pa.

In April of 2009, Erie City Council passed Councilman Pat Cappabianca's resolution requesting the Erie County Medical Society to review and report on the Risk Assessment prepared for ERE. (3)

Authors of Reports

Energy and Environmental Management Incorporated (EEMI) is the sole listed author of the two documents Air Quality Impacts and Modeled Values. EEMI gives its only address as Post Office Box 376, Harrison City, Pa. 15636-0376. Principals of the organization are not listed in the report. No individuals are identified as preparers of the report.

Zordan Associates is the sole author listed for the document Erie Renewable Energy Risk Assessment. Zordan Associates gives as its only address Murrysville, Pa. No principals of the firm are listed in the report. No individuals are identified as preparers of the report.

We at the Erie County Medical Society are concerned by the lack of information of the originators of these documents. The failure to list individual authors impedes independent verification of the authors' identities, qualifications and backgrounds. The failure to give physical addresses and especially the failure to identify the principals of EEMI and Zordan makes it difficult to verify these two organizations as being unrelated to one another or to ERE either personally and financially.

Meteorologic Data

All three report relied on meteorologic data from the period 1990 through 1995 for dispersion modeling. It is generally agreed that data which are the most recent are the most dependable. Consequently, it is a notable shortcoming of the reports that more recent data was not presented and it is curious that an explanation was not offered.

Independence of Reports

All three reports were commissioned by ERE, consequently, their independence may be compromised.

Additionally, a great deal of the data in the Zordan Risk Assessment appears to come directly from EEMI's Model values (4) which is not consistent with an independent evaluation.

We are concerned with the first two paragraphs of Section 1.04 Atmospheric Dispersion Modeling of the Zordan Risk Assessment. These paragraphs state, in reference to ERE's proposal for the tire plant

The Plan approval Application includes a dispersion analysis of the criteria pollutants from the ERE project. That evaluation concluded that the applicable USEPA and PADEP ambient air quality standard are met by the project.

This risk assessment is conducted, in part, to supplement the evaluation of the criteria pollutants in the Plan Approval Application. That evaluation demonstrated

that the criteria pollutant emissions meets (sic) the EPA's (National Ambient Air Quality Standards) standards (sic) with substantial margin.

Therefore, the Zordan Risk Assessment may not qualify as independent when it specifically states that it was conducted "to supplement the evaluation of the criteria pollutants" by ERE for the plan ERE was proposing to build.

The Zordan Risk Assessment continues to assure consistency between this risk assessment and the dispersion modeling done for the Plan Approval Application, it was decided to use the identical approach or the modeling. The emission factors for the HAPs (hazardous air pollutants) associated with the operation of the CFBs (circulating fluidized beds) and the minor support services were used as input. The receptor grid used in both dispersion analyses are (sic) identical the same six years (1990-1995) of meteorologic data were used.

The Zordan Risk Assessment likely is not an independent evaluation for the ERE plan for the tire fueled power plant when "to assure consistency" it uses identical computer modeling, identical input data, identical grid arrays and identical years of meteorologic data.

Boiler Level of Operation

Table 3 of Air Quality impacts submitted by Energy and Environmental Management Incorporated indicates that for PM₂₀ (particulate matter less than 10 microns) the significant annual impacts would be 0.50412 micrograms per cubic meter (mcg/s³) for 1990 meteorologic data, 0.55482 for 1991, 0.55306 for 1992, 0.54764 for 1993, 0.50818 for 1994 and 0.51834 for 1995. But a footnote in that table indicates that the 1992, 1993 and 1994 data were for boiler operations at 75% capacity and 1995 data were for boilers operating at 50%. Of interest is whether this raises the 1992 impact to 0.73741, the 1993 impact to 0.73019, the 1994 impact to 0.67757, and the 1995 impact to 1.03668 mcg/m³ when the plan is operating at its expected 100% capacity. If so, levels would exceed the EPA standard for the PM₁₀ Annual Significant Impact level which is set at 1.00 mcg/m³. (5)

PM₁₀ Impact

The increase in PM₁₀ concentration caused by the plan is given in ERE's Air Quality Impacts Report (6) as 0.5044 to 0.55306 mcg/m³ and the PM₁₀ output is given as 230 tons per year (7), or 1386 pounds per day (8).

But the dilution of 1386 pounds of PM₁₀ per day down to a concentration of 0.5 mcg/m³ requires 302.289 cubic miles of air per day(1). This is the atmosphere to an altitude of one mile over a circle almost 20 miles in diameter. Moreover, these hazardous particulates are not first diluted to 0.5 mcg/m³ and then discharged evenly throughout this area. Rather they are discharged at high concentration from a point source and diminish toward the edges of the area. These high concentrations over heavily populated areas are not occasional events, but can occur every day the plant operates.

Hourly vs. Annual PM₁₀ Impact

Energy and Environmental Management's Modeled Values lists in Tables 2 through 7 the Maximum Annual Impact of HAP (hazardous air pollutants) for PM₁₀ and other pollutants for meteorologic data representing the years 1990 through 1995 inclusive. Tables 8 through 13 of that document list similar data for Maximum Hourly Impact of HAP.

For Maximum Annual, the impacts of PM₁₀ for 1990 through 1995 range from .50350 mcg/m³ to .55082 mcg/m³. For Maximum Hourly, the impacts range from 20.332 mcg/m³ to 32.984 mcg/m³.

These data raise two important issues:

First, the most recent available (2005) Erie level for PM_{2.5} (particles less than 2.5 microns) is 14.4 mcg/m³. (17) The National Ambient Air Quality Standard (NAAQS) for PM_{2.5} is 15.0 mcg/m³ and the EPA's Clean Air Science Advisory Committee in 2007 recommended a reduction to 14.0 mcg/m³. (18) Despite the fact that the present PM_{2.5} level already encroaches the standard, the tire plant's comments still do not indicate how much of its stated .55082 mcg/m³ projected particulate additional would PM_{2.5}. There can be no health advantage in elevating this already marginal level still further.

Second, the annual PM₁₀ additions of anywhere from 0.50350 to 0.55082 mcg/m³ quoted in the ERE commissioned Modeled values are reassuringly low and, indeed, would remain within the PA standard increase of 1.00 mcg/m³. However, it is difficult to reconcile how the tire fueled power plant, while increasing the county's industrial PM₁₀ contribution by 2.56 times would only raise the PM₁₀ concentration from 16.0 to 16.55. A quick calculation demonstrates that this can only happen if the present industrial contribution to the PM₁₀ level is 1.34%. (19)

However, this 1.34% figure is far below the industrial PM₁₀ contribution of 6.99% given for Erie County on Scorecard. org and the contribution of 7.0% given as the PA state average in the PA DEP's Environmental Futures Planning Process Baseline Assessment and Cause/Effect Analysis. (20) This discrepancy should have been mentioned in Zordan's Risk Assessment since it challenges the validity of the projection that the plant's PM₁₀ increase will be only 0.50-0.55 mcg/m³.

PM_{2.5}

The EPA has more stringent standards for PM_{2.5} than for PM₁₀ because the smaller PM_{2.5} particles are more dangerous. The larger particles precipitate out in the large upper airways where they are trapped in mucus and either expectorate or swallowed. The smaller particles remain suspended until they reach the tiny air sacs of the lungs, where they lodge permanently or find their way into the blood stream.

Nevertheless, the tire plant's three submitted documents mention only its projected PM10 emissions, not the more critical PM2.5 emissions.

The PM2.5 emissions frequently represent a major portion of the PM10 emissions. In Erie presently, 90% of the PM10 level is PM2.5 (14.4 mcg/m3 of the total 16.0 mmcg/m3) (17)

The US EPA standard for PM2.5 is 15 mcg/m3 annually and 35 mcg/m3 for a 24 hour period. (21) The Erie PM2.5 level is 14.4 mcg/m3 annually. (17) First, this is already close to the EPA's annual limit. Second, the EPA 24 hour limit is also threatened. As both EEMI's Modeled Values and Zordan's Risk Assessment indicate, (22) the tire plant's maximum hourly impacts for PM10 are projects as 20-33 mcg/m3. With Erie's baseline PM2.5 level of 14.4 mcg/m3, major portions of the 20-33 mcg/m3 PM10 that are also PM2.5 could push the level beyond the PA's mcg/m3 limit. This is a matter for deep concern.

Health Impact Assessment

Risk Assessment prepared by Zordan Associates describes itself as "an inhalation risk assessment" that "demonstrates that the ERE project can be operated at risk levels well below those commonly regarded as safe or acceptable." (10) However, it fails to state just what are the "risk levels" "regarded as safe or acceptable."

We know from unbiased, authoritative sources that "No (particle) exposures have zero risks." (11) We know that for every 10 mcg/m3 increment of fine particles, the risk of death from lung cancer increases by 8%, from heart disease by 6%, and from all causes by 4%. (12) We know from the plant's own data (13) that the plant will emit lead and "There is no safe level of lead in the body". (14) We know that the plant will emit mercury (15) and that these is no safe level of mercury. (16) These facts should be confronted directly and the extent of the risks specified. They should not be dismissed summarily with the statement that the risks, without being specified, would nevertheless be "below those commonly regarded as safe or acceptable." An adequate health risk assessment would indicate the type and number of increased illnesses and mortalities expected to be produced by the plant.

Independent Statistical Review

In addition to our review of the ERE risk assessment, we made the two EEMI documents and the Zordan document available to Anthony Salvia, PhD, for his evaluation. Dr. Salvia is a mathematician and professor emeritus of statistics at Penn State Erie-The Behrend College, where he taught for almost 30 years. He has an extensive background as an industrial consultant, has authorized the college text book Introduction to Statistics, and has written almost 50 journal articles. Dr. Salvia received no remuneration for his review of the documents.

Dr. Salvia had three main concerns regarding the methodology of the ERE reports.

First, he indicated that, although the model-predicted pollution outcomes given in those reports are probability dependent, no information is given regarding the probabilities of those outcomes. Without this information, the validity of the outcomes cannot be assessed.

Second, Dr. Salvia questioned why meteorological data from 1990-1995 was used in place of ordinarily more reliable recent data. Like us, he was concerned why this deficiency was never explained.

Third, he questioned the presentation of extensive quantities of raw data without sufficient effort to summarize the data or extract significant information from it. He considered this a serious shortcoming.

We have attached to our review a copy of Dr. Salvia's letter along with a statement of some of his credentials.

Summary

In summary, the three documents Air Quality Impact, Modeled Values, and Risk Assessment do not answer the Erie County Medical Society's concerns about the dangers to health and life posed by the projected tire-fueled power plant.

* They may not be independent since they were all commissioned by ERE and are not reconciled with data and conclusions from independent sources.

* The assessment fails to indicate the range within which its predictions are statistically valid (wide ranges indicate poor validity).

* They do not assess health risk since they do not attempt to evaluate health risk for particulate matter, lead, and mercury where health risks are known to exist at any concentration.

* They do not address the anomaly of multiplying the present industrial particulate emission by 2.56 times, yet producing an only minimal increase in particulate concentration.

* They do not quantify the portion of PM10 which is also PM2.5, the most dangerous fraction and the fraction already at the brink of exceeding the EPA standard.

* They use outdated meteorologic data for dispersion predictions when current data should be available. They do this without explanation.

* They fail to explain how such a low and uniform particulate concentration can result from the point discharge of such a large mass of particulate without creating intervening areas of high concentration.

(Footnotes Listed on the original copy on File)

Dr. Thomas Falasca, Secretary, Erie County Medical Society
1438 West 38th Street, Erie, Pa. 16508-2324

June 7, 2009

Dear Dr. Falasca:

Thank you for the opportunity to review documents containing information about the proposed ERE facility. I have just a few comments to make about those documents; these are from the viewpoint of a statistician.

1. The numerical results presented in the reports are based on simulation. This is an obvious necessity, since the ERE facility does not exist and therefore cannot produce actual data. Simulation as a technique is certainly acceptable, but the usual practice is to provide the reader some indication of (a) the number of iterations used in simulating an individual result, and (b) a measure of variability, such as a standard deviation, standard error, or range, that can be associated with the individual's result. Without some measure of variability there is no basis for determining how closely the simulation will predict reality. In short: the numbers may be very accurate or very inaccurate.

2. When data occur in time order, they form what is termed a time series. Every existing method of time series analysis applies more weight to more recent observations, and less weight to more remote observations. Furthermore, estimation error increases the farther into the future we predict. It is puzzling, therefore, that the reports are based on data from the time period 1990-1995. The newest numbers are nearly 14 years old. There may be valid reasons why that time period was elected, but the reports do not indicate any.

3. One aspect of statistical work, known as exploratory data analysis, is to extract information from masses of numbers; for example, instead of reporting a ballplayer's results every single day of the baseball season, we summarize the individual results into just a few numbers such as batting average, on base percentage, etc. Data are frequently summarized in graphical form. Numerical and/or graphical summaries are absent from the report, and are sorely needed.

S/ Anthony A. Salvia

ERIE COUNTY DEPARTMENT OF HEALTH

July 1, 2009

By resolution of Erie City Council dated April 15, 2009, the attached statement was made today to Council by Paul Burroughs, Esq., chair of the Erie County Board of Health.

I am Attorney Paul Burroughs, chair of the Erie County Board of Health I am here today to respond to your request that the Board of Health review the Inhalation Risk Assessment report of ERE and make our findings known to the Erie City Council.

The Erie County Board of Health continues to have significant concerns regarding the development and operation of a tires derived fuel plant in the county and specifically within the city.

In October 2008, we formulated a resolution which was unanimously approved by all members of the board. The resolution was based upon study and review of ERE application documents and upon interviews with numerous scientists and practitioners representing the fields of climatology, chemistry, wildlife biology, as well as several physician specialists. Additionally, we reviewed a significant number of scientific particle research papers all dealing with the pollutants identified by Erie Renewable Energy and the PA Department of Environmental Protection as criteria pollutants. We also reviewed numerous other albeit non-regulated pollutants which will be pumped into the environments in which we live.

Our research has shown:

* ERE has estimated that, on average, 900 tons per day of tire derived fuel (TDF) would be combusted at the facility.

* The combustion of the TDF will generate approximately 155 tons per day of ash.

* There is no estimate of the emission of carbon dioxide. (Because CO₂ is one of those non-regulated emissions, yet, as we know, CO₂ is a primary cause of global warming.)

* There is no emission estimate given in the plan approved application for polycyclic aromatic hydrocarbons (PAHs). PAHs are a subset of volatile organic compounds (VOCs). ERE has estimated that 27.5 tons per year of VOCs will be emitted per year.

* There is no direct estimate of the amount of PM-2.5 emitted from the facility. ERE will most likely be required to conduct a stack test for filterable PM-2.5 as part of the plan approval.

* Nitrous and sulfur oxides produced contribute to acid rain.

* Mercury compounds concentrate in the lake/water and benthos, bioaccumulate and biomagnify through the food chain. Even the smallest amount of Mercury is harmful to humans, fish and animals.

(January 2009 New England Journal of Medicine) scientific study has proven:

* There is a direct relationship between the level of fine-particle pollutants in the air people breathe and life expectancy in cities across the United States.

* Replacing the average level of fine-particle pollutants - the most damaging kind - by 10 micrograms per cubic meter of air add about seven months of life

expectancy, according to the study of 51 metropolitan areas from Portland, Wash, to Tampa Bay, Fla.

(2005 Air and Waste Management Association)

* Despite important gaps in scientific knowledge and continued reasons for some skepticism, a comprehensive evaluation of the research findings provides persuasive evidence that exposure to fine particulate air pollution has adverse effects on cardiopulmonary health.

* Since 1997, there has been a substantial amount of research that added to the evidence that breathing combustion-related fine particulate air pollution is harmful to human health.

* Tires contain around 20 different metals most of which have effects on humans, aquatic life and animals.

2002 Environmental Health Perspectives)

* The magnitude of the association between particulate pollution and daily deaths suggests that controlling fine particle pollution would result in thousands fewer early deaths per year.

(Circulation 2008)

* Studies show an association between long-term air pollution and well-established quantitative measures of atherosclerosis. Biological plausibility for a causal relationship between air pollution and atherosclerosis is supplied by animal studies.

(Environmental Science Technology 2006)

* Ultrafine particles are emitted preferentially and exhibit the longest atmospheric residence time.

* "Atmospheric PM has been linked with adverse effects on human health"

(Environmental Science and Technology 2001)

* During their migration through the air, PAHs can undergo environmental factors which transform them into products in some cases more dangerous than the originally released PAHs or their derived compounds can get into water and soil being assimilated by the different organisms (plants, animals, fish, etc.) existing in the corresponding ambient. As a result and due to the biological cycle at which living species are submitted, PAHs and derived compounds can get into the human body more or less directly, by ingestion, inhalation, or contact with the skin forming adducts which could alter the regular behavior of cells.

(JAMA 2002)

* Long-term exposure to combustion-related fine particulate air pollution is an important environmental risk factor for cardiopulmonary and long cancer mortality.

Based upon these and numerous other research findings, our resolution recommended four steps are taken:

(1) that an independent risk assessment of the long term operation of this plant on the health, safety and welfare of the people and the environment be required as a part of the review process by the Pennsylvania Department of Environmental Protection.

(2) that the developer provide to the Board of Health and the Erie community the design of the risk assessment and the raw data following the assessment as well as the report itself and all supporting data;

(3) that specific reference to current research regarding polycyclic aromatic hydrocarbons (PAH's and the specific emissions of this plant be addressed within the assessment;

(4) that specific reference to current research regarding ultrafine particulate matter (less than 2.5 microns in size) and the specific emissions of this plant be addressed within the assessment.

We have subsequently reviewed the ERE submitted assessment and find that the report closely follows the regulated parameters of the DEP and verifies that operations of the plant would be within those guidelines. The report does not offer any interpretive data and corresponding effects on health. The report also does not address our request for raw data and other specific components of our resolutions. There is a noticeable absence in the report of the public health effect of (known) non-criteria pollutants.

The Board of Health shares the opinions and findings of the Erie County Medical Society. We recognize that the operation of this plant will significantly raise the pollutants being emitted into our air, our ground and our water. According to the literature, the pollutants, both criteria and non-criteria, will have a measurable, definite negative impact on the health of the residents of the City of Erie, the County of Erie and surrounding populations.

The Board of Health is even more concerned when we see and are told that the current regulatory process has such a difficult time monitoring and enforcing pollution controls at a neighboring facility which has been operating out of compliance for years, namely Erie Coke. All the while, while we had been being assured by DEP that Erie Coke was operating within regulatory compliance, large amounts of non-compliant discharges are finding their way into our environment.

You should also be aware that the Board of Health requested assistance from the PA Department of Health. As a result, the Bureau of Epidemiology and the Agency for Toxic Substances and Disease Registry is currently reviewing all submitted data and considering the health impacts of the proposed plant. The Department of Health is in

contact with the DEP and has assured us that this review will be complete and submitted to the Erie County Department of Health and the DEP prior to any final decision being made by the DEP. The resultant assessment documents will provide information regarding potential exposures and probable adverse health effects associated with such levels of exposure to various compounds.

At this time, based upon the information which we have been provided, the opinion of the Erie County Board of Health is that the operation of the proposed ERE facility will pose a definite short term, as well as long term negative health risks and consequences upon the residents of Erie County. The operation of this plant will also pose a negative risk and consequences to the quality and health of the environment of Erie County.

July 1, 2009. City Council on motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, adjourned at 12:00 noon by yeas Council Members Aleksandrowicz, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 6. Nays. 0. (Mr. Cappabianca left the meeting at 11:57 a.m.)

Attest:

President of City Council

City Clerk